Office of Small Business Programs

# Basic Subcontracting Requirements

## Defense Acquisition University Web Cast
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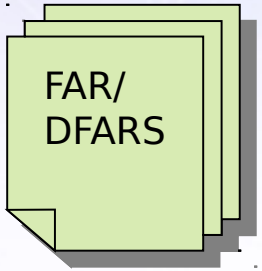
# OVERVIEW

- Background
- When is a Subcontracting Plan Required?
- Types of Subcontracting Plans
- Elements of a Subcontracting Plan
- Roles and Responsibilities
- Negotiation of Plans/Goals
- Small business participation evaluation factor
- Monitoring Performance

# BACKGROUND

- **Statutory Authority**:
  - Small Business Act
    - Section 8(d) – 15 USC 637(d)
    - Section 15(g) – 15 USC 644(g)
- **Regulations/Directives:**




  - FAR 19.7/DFARS 219.7
  - FAR Clause 52.219-8, Utilization of Small Business Concerns
  - FAR Clause 52.219-9, Subcontracting Plan
  - DoD Directive 4205.1, September 11, 1996, DoD Small Business and Small Disadvantaged Business Utilization Programs

# REGULATORY REQUIREMENTS

**When is FAR Clause 52.219-8, Utilization of Small Business Concerns, required?**

- Contracts > Simplified Acquisition Threshold AND subcontracting opportunities exist
- Required for all business concerns, including small businesses
- Not required for personal services contracts or when performance is entirely outside the US and outlying areas

# REGULATORY REQUIREMENTS

**When is FAR Clause 52.219-9, Small Business Subcontracting Plan, required?**

- Contracts > $550K ($1M construction) AND subcontracting opportunities exist
- Modifications > $550K with new work AND subcontracting opportunities exist
- From large businesses, state/local govt., educational institutions, foreign owned firms. Basically, all except small business concerns

# REGULATORY REQUIREMENTS

**SB Subcontracting Plan Not required for:**

- Small business (SB) set asides or 8(a) program
- Personal services contracts
- When performance is entirely outside the U.S. and outlying areas
- Modifications within scope that do not contain 52.219-8

**NOTE**: When a determination is made that there are no subcontracting opportunities, it must

# TYPES OF SUBCONTRACTING PLANS

**Individual:**

- Plan for a specific contract – (1 contract = 1 plan)
- Covers entire contract period, including options
- Contains required elements (FAR 19.704)
- Must submit Individual Summary Report (ISR) or SF 294 semiannually
- Must submit Summary Subcontract Report (SSR) or SF 295 semiannually for

# TYPES OF SUBCONTRACTING PLANS

**Master Plan:**

- Boiler plate plan
- Corporate, plant, or division basis
- Effective for 3 years after approved
- Contains required elements (FAR 19.704), except goals
- Goals negotiated for each contract that incorporates the master plan
- When incorporated into contract, must submit ISR (SF 294) and SSR (SF 295)

# TYPES OF SUBCONTRACTING PLANS

**Commercial:**

- Preferred for commercial items
- Annual plan
- Contractor's fiscal year
- Corporate, plant, or division basis
- Contains required elements (FAR 19.704)
- Must submit SSR (SF 295) annually

# TYPES OF SUBCONTRACTING PLANS

## Comprehensive Subcontracting Plan:

- DoD Test Program, DFARS 219.702 and associated PGI, expires 30 Sep 2010
- Annual plan
- Government fiscal year
- Corporate, plant, or division basis
- DCMA administers program
- Contains required elements (FAR 19.704)
- Submit SSR (SF 295) semiannually

# MANDATORY ELEMENTS OF PLANS

**Per FAR 19.7 and 52.219-9 subcontracting plans must include:**

- Goals based on planned total subcontracting dollars expressed as a %
- Total dollars to be subcontracted
- Types of supplies/services to be subcontracted
- Method used to develop goals
- Method used to identify potential SB
- Indirect costs included/not included

# MANDATORY ELEMENTS OF PLANS

**Per FAR 19.7 and 52.219-9 subcontracting plans must include (cont.):**

- Name of individual administering the plan
- Efforts to ensure SB have equitable opportunity to compete
- Assurances that required clauses and provisions will flow down to subcontractors
- Assurances that reporting will be

# MANDATORY ELEMENTS OF PLANS

## Categories included in goals of plans

| | |
|---|---|
| Small Business (SB) | Self-certify |
| Small Disadvantaged Business | SBA-certified |
| Woman-owned SB | Self-certify |
| HUB Zone SB | SBA-certified |
| Veteran-owned SB | Self-certify |
| Service Disabled Veteran-owned SB | Self-certify |
| Historically Black Colleges & Universities/Minority Institutions (HBCU) | DFARS 252.219-7003<br>http://www.ed.gov/about/offices/list/ocr/edlite-minorityinst.html |

# ROLES AND RESPONSIBILITIES

- Procuring Contracting Officer (PCO)
  - FAR 19.705
- Small Business Specialist (SBS)
  - DoD Directive 4205.1
- Small Business Administration (SBA), Procurement Center Representative (PCR)
  - FAR 19.707
- Defense Contract Management Agency (DCMA)
  - FAR 19.706
- Administrative Contracting Officer (ACO)

# NEGOTIATION OF PLANS/GOALS

**How does the process really work?**

- Acquisition Planning
  - Market Research
  - SBS key member of acquisition team
- Solicitation requires plan
  - FAR 52.219-9 & DFARS 252.219-7003 Small Business Subcontracting Plan (DoD Contracts) OR,
  - 252.219-7003 Small Business

# NEGOTIATION OF PLANS/GOALS

**How does the process really work? (cont.)**

- PCO
  - Obtains plan and past performance info (DCMA input)
  - Reviews plan for mandatory elements
  - Forwards plan with completed review to SBS and SBA PCR who provide comments

# NEGOTIATION OF PLANS/GOALS

## TIPS & POINTERS

- Use an evaluation checklist
- Remember mandatory goals:
  - Woman-owned SB – 5%
  - Small Disadvantaged Business – 5%
  - Service Disabled Veteran-owned SB – 3%
- Past performance helps in assessing "reasonableness" of plan and goals
- Ensure goals and dollars are stated per year and for the total life of the contract

# NEGOTIATION OF PLANS/GOALS

## TIPS & POINTERS

- Zero is not a goal!
- Balance market research information with the contractor's make-or-buy policies
- For DoD contracts, a SDB goal <5% must be approved one level above the contracting officer
- Ensure numbers are correct and that percentages are calculated correctly – a company may fall under more than one category of SB (e.g. a WOSB that is also SDB and SB)

# NEGOTIATION OF PLANS/GOALS

## TIPS & POINTERS

- Keep the DoD and your own agency's subcontracting goals in mind

| CATEGORY | DoD GOAL FY 07 |
|---|---|
| Small Business | 35% |
| HUB Zone SB | *** |
| Service-Disabled Veteran-Owned SB | 3.0% |
| Small Disadvantaged Business* | 5.0% |
| Women-Owned SB | 5.0% |
| HBCU/MI** | 5.0% |

***SDB awards include 8(a) awards**

****Base for HBCU/MI measurement is awards to Institutions of Higher Education and total HBCU/MI dollars should be included when developing goals for SDB**

*****HUB Zone subcontracting program does not require a DoD-wide goal but requires a goal in all DoD contracts that require a**

# SB PARTICIPATION EVALUATION

## References

- FAR 15.304(c)(3) through (5)
  - For bundling evaluate past performance and SB participation in the plan
  - Evaluate SDB participation (FAR 19.1201)
- DFARS 215.304(c)
  - SB participation shall be evaluated in best value source selections when a subcontracting plan is required
  - Evaluation must include HBCU/MI participation broken out from SDB

# SB PARTICIPATION EVALUATION

**What is the difference between FAR/DFARS Subpart 19.7 requirements and FAR/DFARS Subpart**

| Subpart 19.7 | Subpart 15.3 |
|---|---|
| Plan is pass/fail | Evaluates overall SB (all categories) and HBCU/MI participation and is a rated evaluation factor |
| Requires 11 items in accordance with FAR 19.704 | Requires evaluation of extent to which offerors identify & commit to SB and HBCU/MI and may be separate from Subpart 19.7 plan |
| Based on total subcontracted dollars | May be based on total subcontracted dollars or the value of the total acquisition |
| Does not apply to SB | Should apply to SB |

# SB PARTICIPATION EVALUATION

- **Review and evaluation of both the Subcontracting Plan and the SB participation factor:**
  - Consider past performance on prior plans and contracts
  - Utilize input from ACO, SBS and SBA
  - Rely on current market research
- **What reporting is required?**
  - SF 294 (ISR), SF 295 (SSR)
  - Other
- **Metrics, contract incentives,**

# SB PARTICIPATION EVALUATION

**How does SDB participation evaluation requirement fit in?**

- FAR 19.12, SDB Participation Program
  - Requires evaluation factor/sub-factor in best value source selection for SDB participation for certain NAICS industry codes, FAR 19.201(b)
  - May provide incentives to encourage increased subcontracting opportunities for SDB in required industries
- When evaluating SB participation under FAR/DFAR 15.304, you can also meet requirements of FAR 19.12

# SB PARTICIPATION EVALUATION

## Compare SDB and SB participation:

| FAR Subpart 19.12 | FAR/DFARS Subpart 15.3 |
|---|---|
| **Evaluates SDB participation for certain NAICS industries and is a rated evaluation factor** | **Evaluates overall SB (all categories)/HBCU/MI participation and is a rated evaluation factor** |
| **Requires evaluation of extent to which offerors identify & commit to SDB and may be separate from Subpart 19.7 plan** | **Requires evaluation of extent to which offerors identify & commit to SB/HBCU/MI and may be separate from Subpart 19.7 plan** |
| **Shall be based on the total contract value** | **May be based on total subcontracted dollars or the value of the total acquisition** |
| **Applies to all offerors including SDB, who can count their own work for credit if they waive the SDB price evaluation adjustment** | **Should apply to SB, who can count their own work for credit** |
| **Contract must list SDB firms and contractor must notify government when substituting other than SDB** | **Contract should list SB/HBCU/MI and require contractor to notify government when substituting other than SB/HBCU/MI** |

# MONITORING PERFORMANCE

**PCO or ACO (FAR 19 and 42)**

- Notify SBA of award
- Monitor reports
- Document performance
- Provide advice and assistance to firms
- Assess Liquidated Damages, FAR 19.705-7, 15 USC 637(d)(4)(F)
  - What actions should lead up to this?
  - 15 working day notice
  - How much?
  - Subject to the Disputes Clause of the

# WRAP-UP

- **Why is subcontracting so important?**
  - Required by statute and regulation
  - Expands the industrial base
  - Good for the economy – "Small business is good business!"
- **Who can impact DoD accomplishment of goals and objectives before, during and after negotiating subcontracting plans and goals?**
- **Rely on human and technology resources**

# SUBCONTRACTING RESOURCES

- FEDBIZOPPS “Vendor Notification Service” and “Vendor’s Guide for Federal Procurements
http://www1.fbo.gov/spg/index.html

- DefenseLink >$5 million award notices
http://www.defenselink.mil/contracts

- SBA Subcontracting Opportunities Directory (SUBNET)
http://www.sba.gov/GC/indexcontacts-sbsd.html

- Procurement Technical Assistance Centers (PTAC)
http://www.dla.mil/db/procurem.htm

- Companies Participating in DoD Subcontracting Program Report (P-14)
http://siadapp.dmdc.osd.mil/procurement/historical_reports/statistics/procstat.html

- DoD Office of Small Business Programs

# SUBCONTRACTING REQUIREMENTS

# QUESTIONS?